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**In the Supreme Court of the
United States**

(OCTOBER TERM, 1944)

No. 687

NUWAY LAUNDRY COMPANY,
a corporation,
Petitioner,

V E R S U S

CHESTER BOWLES, Administrator Office of
Price Administration,
Respondent.

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE TENTH CIRCUIT, AND SUPPORTING
BRIEF.**

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November, 1944.



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PETITION FOR WRIT OF CERTIORARI

To the Honorable the Supreme Court of the United States:

The above-named petitioner respectfully shows:

I.

**SUMMARY STATEMENT OF THE MATTER
INVOLVED**

Under the Emergency Price Control Act of January 30, 1942, C. 26, 56 Stat. 23, 50 U. S. C. A. App. 901 *et seq.*, the Administrator, on April 28, 1942, issued General Maxi-

Maximum Price Regulation establishing maximum prices for commodities and services regulated thereby (7FR3153). Effective June 23, 1942, said Administrator promulgated Maximum Price Regulation No. 165 (7FR4734) as applied to laundry service, and these Regulations were in force at the time of the commencement of this action in the trial court (R. 2). The base period under said Maximum Price Regulation No. 165, as amended, is March, 1942. The petitioner was engaged in the laundry business in Oklahoma City, Oklahoma, during said base period and rendered the following separate and distinct services: Commercial Flatwork; Rental Linen; Budget Bundle; Fluff Dry Bundle; Wet Wash Bundle; Thrifty Bundle; and All Finish Bundle. During said period, and for about six months prior thereto, the petitioner gave a 20% discount to all Cash and Carry customers purchasing services requiring three days or longer to perform.

During said base period, and for many years prior thereto, the petitioner, as a business competition practice, sold its Commercial Flatwork service on a per pound basis ranging from 2¢ to 8¢. Between November, 1942, and March, 1943, it sold this service for a price per pound not exceeding 8¢ (R. 40).

During said base period, and for many years prior thereto, the petitioner, as a business competition practice, sold its Rental Linen napkin service on a per hundred basis ranging from 55¢ to 85¢; and as to Flatwork on a per pound basis ranging from 5¢ to 8¢. Between November, 1942, and March, 1943, it sold this service at an increased price

to some of its customers, but not exceeding the maximum price during said base period; that is to say, not more than 85¢ per hundred for napkins and 8¢ per pound for flatwork (R. 40).

During said base period the petitioner sold five separate and distinct bundle services:

(1) Budget Bundle — Completely Finished — Minimum, 12 pounds for \$1.49. Over 12 pounds 9¢ per pound. Shirts finished 8¢ each additional.

(2) Fluff Dry Bundle—Flat Work all Finished—Minimum 9 pounds for 76¢. Over 9 pounds 7¢. Shirts finished 8¢ each additional.

(3) Wet Wash Bundle—Everything Returned Damp. Minimum 12 pounds for 49¢. Over 12 pounds 4¢. Shirts finished 10¢ each additional.

(4) Thrifty Bundle—Flat Work Finished, Wearing Apparel returned damp. Minimum 8 pounds for 49¢. Over 8 pounds 6¢ per pound. Shirts finished 8¢ each additional.

(5) All Finish Bundle—Everything Finished. Shirts Plain 10¢, 15¢, 20¢, 25¢. Shirts pleated 25¢. Shirts finished DeLuxe 25¢, Silk Shirts 35¢.

In each of the five types of bundle services above mentioned, the same character of service was performed in finishing shirts with collars and cuffs attached (R. 24-25).

On and after March 1, 1943, the petitioner increased the price for finishing shirts with collars and cuffs attached, laundered in connection with said bundle services, over the price charged in March, 1942, as follows:

Budget Bundle—Pound Price unchanged. Shirts finished increased from 8¢ to 12½¢.

Fluff Dry Bundle—Pound Price unchanged. Shirts finished each from 8¢ to 12½¢.

Wet Wash Bundle—Pound Price unchanged. Shirts finished each from 10¢ to 12½¢.

Thrifty Bundle—Pound Price unchanged. Shirts finished each from 8¢ to 12½¢.

All Finish Bundle—Discontinued the 10¢ price. All other prices remain the same (R. 25).

In July, 1943, the petitioner discontinued selling the Budget, Wet Wash and Thrifty Bundle services. In July, 1943, it also discontinued the finishing of shirts as a part of the Fluff Dry Bundle service at the same price it charged therefor in March, 1942; and thereupon it sold the service of finishing shirts with collars and cuffs attached only as a part of its All Finish Bundle service, and charged therefor a minimum of 15¢ for each shirt, and a maximum of 25¢ for plain and 35¢ for silk shirts. In this bundle service the petitioner made a separate charge for each article included in the bundle (R. 42-43).

During said base period, and for five or six months prior thereto, the petitioner allowed a discount of 20%

to all of its Cash and Carry customers on the price of all laundry services for the performance of which three days or longer were allowed. This cash discount was discontinued by the petitioner in November, 1942, because of increased operating costs and the shortage and excessive turnover of labor.

On March 3, 1943, the Administrator commenced an action in the District Court of the United States for the Western District of Oklahoma against the petitioner. The complaint appears in the record at pages 1 to 5. A violation of said Act, and the Regulations promulgated thereunder, is alleged and an injunction sought. A written stipulation was entered into and filed (R. 22-29). In addition to this stipulation P. O. DENHAM, an official of the petitioner, testified as a witness (R. 51-73). Upon this stipulation and the testimony of this witness Findings of Fact and Conclusions of Law were prepared and filed (R. 39-44). The trial court held that the petitioner acted in good faith, substantially complied with said Act and the Regulations promulgated thereunder, and denied the application for injunction. The Circuit Court on appeal reversed, in part, holding that the petitioner violated said Act and Regulations as to the Commercial Flatwork and Rental Linen services, the discontinuance of the 20% discount to its Cash and Carry customers and the partial discontinuance of the Fluff Dry Bundle service, and directed the issuance of a mandatory injunction.

II.

DECISIONS BELOW

The trial court filed an opinion on November 4, 1943 (R. 30-39), which is reported in 52 Fed. Supp. 498. The opinion of the Circuit Court of Appeals was filed August 28, 1944 (R. 77-88). It has not been officially reported. No petition for rehearing was filed by the appellant, the petitioner herein. On September 26, 1944, the appellee, the respondent herein, filed a petition for rehearing with supporting brief (R. 89-101). This petition was denied on October 7, 1944. On October 13, 1944, upon the application of the appellant, the petitioner herein, mandate was stayed for a period of thirty days from October 17, 1944 (R. 102).

III.

JURISDICTION

The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925, 43 Stat. 938, 28 U. S. C. A. Sec. 347 (a).

IV.

QUESTIONS PRESENTED

The following questions are presented:

- (1) During the base period the petitioner sold Commercial Flatwork service on a per pound basis ranging

from 2¢ to 8¢. Between November, 1942, and March, 1943, it sold this service for a price per pound not exceeding 8¢. Did this violate the Act and Regulations involved?

(2) During the base period the petitioner sold its Rental Linen napkin service on a per hundred basis ranging from 55¢ to 85¢; and from 5¢ to 8¢ per pound for Flatwork. Did this violate the Act and Regulations involved?

(3) During the base period the petitioner sold five separate and distinct bundle services, shirts being included in all. It discontinued three of these bundle services. It eliminated the laundering of shirts from the Fluff Dry Bundle service and thereafter laundered shirts only in the All Finish Bundle service. Did the elimination of the laundering of shirts in the Fluff Dry Bundle service and the laundering of shirts only in the All Finish Bundle service violate the Act and the Regulations involved?

(4) During the base period the petitioner allowed a discount of 20% to all of its Cash and Carry customers on the price of all laundry service for the performance of which three days or longer were allowed. It discontinued this discount in November, 1942, because of increased operating cost and the shortage and excessive turnover of labor. Did this violate said Act and the Regulations involved?

(5) Was the Administrator, upon the record, entitled to a mandatory injunction?

V.

**REASONS RELIED UPON FOR THE
ALLOWANCE OF THE WRIT**

The reasons upon which petitioner relies for the allowance of the writ are as follows:

(1) The Circuit Court of Appeals has decided an important question of Federal law which has not been, but should be, settled by this Court.

(2) The laundry industry is a sizeable one, and the services rendered affect the public generally. The Emergency Price Control Act is a war measure. This Act was amended by the Inflation Control Act of October 2, 1942 (C. 578, 56 Stat. 765, 50 U. S. C. A. App. Supp. 961, et seq.), and these statutory provisions and the Regulations promulgated thereunder involved herein should, on account of the industry as a whole and the interest of the public at large, be construed by this Court as applied to the laundry services presented by the record herein.

The Tenth Circuit, so far as our investigation goes, is the only Circuit dealing directly with the question presented here. This application is based upon the rule as applied to non-conflict cases, and this Court may, in its discretion, take jurisdiction. There were kindred questions presented and determined by the Third Circuit. [*Buckeye Parking Corporation v. Bowles, Price Administrator*, 141 Fed. (2d) 692].

WHEREFORE, It is respectfully submitted that this petition for writ of certiorari to review the judgment of the Circuit Court of Appeals for the Tenth Circuit should be granted.

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